

TOWN OF ABINGDON, VIRGINIA
REGULAR COUNCIL MEETING
WEDNESDAY, JANUARY 3, 2007 – 7:30 P.M.
COUNCIL CHAMBERS
MUNICIPAL BUILDING

The regular meeting of the Abingdon Town Council was held on Wednesday, January 3, 2007 at 7:30 P.M. in the Council Chambers of the Municipal Building.

A. ROLL CALL

Members of Council present: Mayor Lois H. Humphreys
Mr. Robert M. Howard, Vice Mayor
Dr. French H. Moore, Jr.
Mr. Edward B. Morgan
Mrs. Cathy Lowe

Comprising a quorum of the Council

Administrative Staff: Gregory W. Kelly, Town Manager
Mark Godbey, Town Treasurer/Finance Director
Garrett Jackson, Planning Director
Jim Smith, Town Engineer
Myra Cook, Tourism Director
Tony Sullivan, Police Chief
Joey Burke, Fire Chief
Cecile Rosenbaum, Legal Assistant
Linda F. Wilson, Town Clerk

Visitors: Debra McCowan of Bristol Herald Courier &
Elizabeth Dawson of Washington County News

B. APPROVAL OF MINUTES

December 4, 2006 Work Session; December 4, 2006 Regular Meeting; & December 16, 2006 Work Session

Mr. Howard made the motion to approve the minutes of the December 4, 2006 work session, the December 4, 2006 regular meeting, and the December 16, 2006 work session as submitted. Dr. Moore seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
Mr. Howard - Aye Mayor Humphreys – Aye

The motion carried.

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C. PETITIONS AND PUBLIC HEARINGS

1. **PUBLIC HEARING** – Request for Certificate of Public Convenience & Necessity to Operate two Taxicabs in 2007. (Jack Kiser, Abingdon Taxi Service)

Police Chief Tony Sullivan reported that the information submitted by Mr. Kiser was investigated and found to be in compliance with the Town Code. Therefore, he recommended that the request for a Certificate of Public Convenience & Necessity for Mr. Kiser to operate two taxicabs in 2007 be approved.

Dr. Moore made the motion to approve the request submitted by Jack Kiser, owner of Abingdon Taxi Service for a Certificate of Public Convenience & Necessity to operate two taxicabs in 2007. Mr. Howard seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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2. **PUBLIC HEARING** – To receive comments regarding a Deed of conveyance of property from Johnston Memorial Hospital, Inc. to the Town of Abingdon with said property being a portion of Tax Map No. 107-1-134.

Greg Kelly, Town Manager, advised that at the previous meeting the Town had entered into an agreement with Johnston Memorial Hospital for the construction of a sewer pump station to be located at their cancer treatment center. Time constraints prevented the public hearing for the actual conveyance of the property to be simultaneous with the agreement. The purpose of the public hearing is to accept the property that is being conveyed by gift to the Town of Abingdon from Johnston Memorial Hospital. Subject to any public comments, Mr. Kelly recommended that Council accept the property and authorize him to execute the deed on behalf of the Town.

Mrs. Lowe made the motion that the Town accepts the deed of conveyance of property from Johnston Memorial Hospital with said property being a portion of Tax Map No. 107-1-134; and further to authorize the Town Manager to execute the deed on behalf of the Town. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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E. REPORTS FROM THE TOWN MANAGER

1. Audit Report – FY 2005-2006. (Greg Tucker of Bostic, Tucker, and Company, P.C.)

Mayor Humphreys advised that Mr. Greg Tucker of Bostic, Tucker, and Company, P.C. had met with Council at the work session and presented the audit report for FY 2005-2006.

Dr. Moore noted that based on the fact that Mr. Tucker had presented a clean audit, he made the motion to accept the audit report for FY 2005-2006. Mr. Morgan noted that the audit included some typographical errors that Mr. Tucker will correct. Dr. Moore amended the motion, subject to the typographical errors being corrected by Mr. Tucker. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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2. Consideration – Request for Approval, Concept and In-Kind Donation. (William King Regional Arts Center, Dan Caldwell & Byrum Geisler)

Mr. Kelly advised that Dan Caldwell, Steve Givens, and Betsy White had presented a proposal to Council at the previous work session regarding a proposed project at the William King Regional Arts Center. They will provide additional information to Mr. Kelly which he will forward to Council.

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3. Continuation – request for Vacation of an unopened portion of Rose Street, South of Dale Street and North of King Street lying between parcels of land owned by Walter C. Murray, Mary E. Murray, and Cary C. & Tobash L. Parris. (Planning Department)

Mr. Kelly advised that following the discussion at the previous meeting, it was recommended to deny the petition to vacate the unopened portion of Rose Street and that the matter is referred to the Planning Commission for consideration to rename the lower section of Rose Street.

Dr. Moore made the motion to refer the request for vacation of an unopened portion of Rose Street, South of Dale Street and North of King Street lying between parcels of land owned by Walter C. Murray, Mary E. Murray, and Cary C. & Tobash L. Parris, to the Planning Commission for consideration to rename the lower section of Rose Street. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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G. FIRST READING OF ORDINANCES

1. Consideration – AN ORDINANCE TO REPEAL, AMEND AND REENACT CHAPTER 2, ADMINISTRATOR, ARTICLE V, PROCUREMENT; SALES, DIVISION 2, CONTRACT FORMATION AND ADMINISTRATION, SECTION 2-191 METHODS OF PROCUREMENT AND SECTION 2-192, COMPETITIVE BIDDING ON STATE-AID PROJECTS.

Mr. Kelly noted that the purpose of the ordinance is to comply with Virginia State law. The enactment of the amendment will increase the amount of procurement up to \$50,000.00 without requiring bids.

Mr. Howard made the motion to approve AN ORDINANCE TO REPEAL, AMEND, AND REENACT CHAPTER 2, ADMINISTRATOR, ARTICLE V, PROCUREMENT; SALES, DIVISION 2, CONTRACT FORMATION AND ADMINISTRATION, SECTION 2-191 METHODS OF PROCUREMENT AND SECTION 2-192, COMPETITIVE BIDDING ON STATE-AID PROJECTS.

Mrs. Lowe seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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2. Consideration – AN ORDINANCE TO ENACT CHAPTER 54, PARKS AND RECREATION ARTICLE IV, SECTION 54-55, RULES AND REGULATIONS FOR TOWN PARKS.

Mr. Kelly advised that following further discussion of the ordinance, it was the consensus that it be referred to the Parks and Recreation Commission for their review and recommendation.

Mr. Morgan made the motion that the proposed ORDINANCE TO ENACT CHAPTER 54, PARKS AND RECREATION ARTICLE IV, SECTION 54-55, RULES AND REGULATIONS FOR TOWN PARKS o be referred to the Recreation Commission. Mrs. Lowe added that at the time the matter is referred to the Recreation Commission, it is requested that they also consider areas for location of a dog park. Mrs. Lowe seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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3. Consideration – AN ORDINANCE TO ENACT ARTICLE III., SECTION 10-30, ANIMAL WASTE DISPOSAL OF THE CODE OF THE TOWN OF ABINGDON.

Mr. Kelly explained that he felt the proposed ordinance is long overdue. The ordinance requires an owner, possessor, or custodian of an animal to clean up the mess left by such animal on public or private property.

Dr. Moore made the motion to approve on first reading, AN ORDINANCE TO ENACT ARTICLE III., SECTION 10-30, ANIMAL WASTE DISPOSAL OF THE CODE OF THE TOWN OF ABINGDON. Mr. Morgan seconded the motion.

Mr. Morgan noted that the Virginia Creeper Trail does not fall under the ordinance because it would require action by both the Abingdon and Damascus Town Council. Mr. Kelly added that a separate section of the code relates to the rules of the Virginia Creeper Trail.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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I. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

1. Consideration – Request for Approval, Change to Fire Department By-Laws.
(Joe W. Burke, Jr., Fire Chief)

Fire Chief, Joe W. Burke, Jr., explained that the purpose of the change to the by-laws is to require members of the Fire Department to attend an average 20 percent of the alarms and calls within a 6-month period. A member who fails to do so will be put on a 6-month probationary period. Should the average for that member remain below 20 percent after the 6-month probationary period, their membership on the Department will be terminated. Exceptions will be made in the event of work schedules and illness.

Dr. Moore made the motion to approve the request of the Fire Department to change the By-Laws as presented by Fire Chief, Joe W. Burke, Jr. Mrs. Lowe seconded the motion.
(copy attached to and made a part of these minutes)

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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2. Consideration, Request for Funding – Virginia Highlands Small Business Development Center.
(James G. Tilley, III, Director)

Mrs. Lowe advised that Mr. Tilley was previously advised that the request would be reconsidered in January. She added that Council had extensively examined the request.

Mrs. Lowe made the motion to deny, at this time, the request made by James G. Tilley, III, Director of the Virginia Highlands Small Business Development Center for funding, based on the information that was provided by other sources. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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K. MATTERS NOT UPON THE AGENDA

There were none to report.

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J. OLD BUSINESS

Mayor Humphreys advised that she had received some phone calls regarding the nuisance of stray cats and chickens.

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I. MISCELLANEOUS BUSINESS AND COMMUNICATIONS

3. Closed Session pursuant to Code of Virginia: Sec. 2.2-3711(A)(3) Discussion or consideration of the acquisition of real property for a public purpose.

Mrs. Lowe made the motion to go into closed session pursuant to Code of Virginia: Sec. 2.2-3711(A)(3) Discussion or consideration of the acquisition of real property for a public purpose. Dr. Moore seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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Dr. Moore made the motion to reconvene in regular session. Mrs. Lowe seconded the motion

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

The following certification was adopted:

Whereas, the Town Council of Abingdon, Virginia has convened in closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712(D) of the Code of Virginia requires a certification by the Town Council that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, be it resolved that the Town Council of Abingdon, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirement by Virginia law were discussed in closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Town Council.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard- Aye Mayor Humphreys – Aye

The motion carried.

Mrs. Lowe made the motion to rescind the previous action regarding Agenda Item I-2. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan – Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

Mrs. Lowe made the motion to deny, at this time, the request made by James G. Tilley, III, Director of the Virginia Highlands Small Business Development Center for funding, based on the information that was provided by all of the involved parties. Mr. Morgan seconded the motion.

The roll call vote was: Mr. Morgan - Aye Mrs. Lowe – Aye Dr. Moore – Aye
 Mr. Howard – Aye Mayor Humphreys – Aye

The motion carried.

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With no further business, the meeting was adjourned.

Lois H. Humphreys, Mayor

Linda F. Wilson, Clerk